

**MINUTES
GAMING ADVISORY COUNCIL**

*November 2, 2007
Helena, Montana*

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Sen. Joe Tropila
Mark Kennedy
Pam Kennedy
John Tooke
Tim Carson

Rep. Mark Blasdel
Nick Murnion
Steve Morris
Bob McAnally

DIVISION STAFF PRESENT

Gene Huntington
Al Arvish
Cregg Coughlin
Larry Renman
Ben Kamerzel

Rick Ask
Jeff Bryson
Kathy Baertsch
Kathy Fisher

SUMMARY OF COUNCIL ACTION

- ♠ The Council requested that the Division draft raffle legislation.
- ♣ Chairman Tooke appointed a sub-committee chaired by Steve Morris to study the casino zoning issue.
- ♥ The Division will review a possible rule change relating to the death of a licensee.
- ♦ The Council requested that the Division draft proposed bingo legislation.
- ♠ The Council tentatively set the next meeting in Great Falls on March 21, 2008.

CALL TO ORDER AND ROLL CALL

Pam Kennedy called the meeting to order at 10 a.m. All members were present. The minutes from the July 20, 2007 meeting were adopted unanimously.

RAFFLE DISCUSSION

Mr. Huntington discussed the results of his meetings with raffle stakeholders. He met with the Montana Association of Counties, the University System, school business officials, the GIA, the MTA and the Commissioner of Political Practices on October 10 to discuss revision of the raffle statute. The group generally agreed that resources are not available to the counties or the state to administer a more formal raffle system and none of the parties perceive that there are major problems or issues arising from the way raffles are currently being conducted.

Mr. Huntington explained the Division's recommendations for conceptual change to the raffle laws: clarify that public schools and universities are included in the listing of "nonprofit organizations" that can conduct raffles; clarify that political campaigns are "nonprofit organizations" that can conduct raffles; and eliminate the \$5,000 cash prize limit for nonprofit organizations to be consistent with having no limit for real or personal property prizes.

Chairman Tooke stated that he would like to expand the school definition to include Catholic Schools and other schools that are not "public" schools.

Nick Murnion asked if schools can get raffle permits now and Mr. Huntington explained that schools can get a permit, although nonprofits are not required to get a permit, but they are required to submit a report to the county.

Kurt Kephart of Cornerstone Conservation described his idea for a state-wide or beyond raffle that could be run on the internet much like the lottery. He explained that there would be outdoor related prizes and that revenue would be used to purchase access to rivers, streams and public land. He would like to broaden the scope of raffles to purchase easements for public access. Mr. Tooke questioned if this was competition for block management programs. Mr. Kephart explained that he is working with Fish, Wildlife and Parks, block management is a lease but if a rancher has public land that is blocked by his boundaries then access could be purchased.

Dennis Unsworth, Commissioner of Political Practices, stated that he had received several calls recently asking if political campaigns are classified as nonprofit organizations, this does not square with the internal revenue code. He added that it has implications beyond this raffle concept and political raffles have not been a big problem in the past.

Mr. Huntington stated that the Division will start drafting legislation and will review Mr. Unsworth's concerns see if a distinction needs to be made between political parties and individual political campaigns. Pam Kennedy suggested political campaigns or organizations.

Mr. Tooke also wanted clarification by taking "public" out of the school definition and must make it schools. Pam Kennedy suggested "public/private schools."

Ms. Kennedy stated that Mr. Kepharts idea would be allowed with these raffle changes but not the internet part of this concept.

RBW LOTTERY APPLICATION STATUS REPORT

Shauna Helfert, Department of Revenue, reviewed the status of the RBW lottery applications. She stated that there were 124 RBW licenses available and 500 applications were received. A drawing was done to award the licenses. Two preferences were given to the applications: 1) if an applicant had applied before and was unsuccessful and 2) if an establishment had a full service restaurant for the previous 12 month period. The second criteria was hard to verify. At this point in time 58 applications had been approved and 41 were given extensions. Some were disqualified at this point because they did not return the application by the due date.

Rick Ask added that the law provides for financial review and fingerprint checks, not a full-blown investigation which would require investigators.

Mr. Carson asked how many out of state ownership applications had been received to date. Ms. Helfert stated that less than ten out of state applications had been received.

Mr. Morris asked what the department's opinion was on the bottle club problem. Ms. Helfert responded that there is a court decision regarding this but she is unaware of the decision and is looking into this matter further.

Mr. Tooke asked Ms. Kennedy if these new licenses had taken the heat off of the national chains ability to gain liquor licenses for their restaurants. Ms. Kennedy responded that this has helped the pizza places but liquor licenses are needed by growing communities and these cabaret licenses do not meet the needs.

INTRASTATE INTERNET GAMBLING

Mr. Huntington discussed the Unlawful Internet Gambling Enforcement Act (UIGEA) that Congress passed in the fall of 2006. The new legislation restricts credit cards and wire transfers for the purposes of internet gambling. This legislation made an exception for "Intrastate transactions." Excluded from the definition of "unlawful internet gambling" are transactions within a state where the activity is legal, but the activity must be in accordance with state laws and regulations that provide for: "age and location verification requirements reasonably designed to block access to minors and persons located out of such State."

Mr. Huntington explained that in response to changes in federal law a new section of law could provide policy on internet gambling without authorizing any additional activities. The following subjects could be addressed in a new section of law. A statement of public policy regarding any internet gambling activity that may be authorized by the legislature could include: 1) all wagering should be conducted through a system or portal that creates a record of all transactions and fees that may result, thus an audit trail would be produced; 2) any activity that is approved by the legislature should pay a fee or tax to pay for the costs of regulation; and 3) any person owning, operating or managing any internet gambling activity must be suitable and maintain a registered agent in the state.

Mr. Huntington explained that internet gambling must provide for age and location verification in one of the following ways: 1) GCD is given rulemaking authority to test and approve technology that can verify the identity and location of players and their computers for any approved internet gambling activity; 2) the computer terminal must be located in a licensed gambling premise; and 3) an organization or association can receive a license if the only players can be members who have verified the age and location of member computers.

Mr. Huntington added the following subjects that could be addressed by legislation: 1) the server for any internet gambling activity can/cannot be located outside of the state; 2) make an exception to the state prohibition of internet gambling for fantasy sports as made legal by the new federal law; and 3) prohibit the use of credit cards or any other form of credit for internet wagers except for the Montana Lottery and deposit wagering hub operators (horseracing).

Rich Miller, GIA, stated that his organization is not interested in participating in any of these changes. There are concerns with credit card issues and problem gambling.

Ronda Wiggers, MCMOA, agreed with Mr. Miller and stated that her group also opposes internet gambling and any changes to current law in Montana.

Ms. Kennedy stated that she is concerned that if intrastate raffles are allowed, some group will try to take it to the next level of interstate raffles. Mr. Tooke stated that interstate raffles are not legal in Montana.

Mr. McAnally asked how people can gamble on the internet without a credit card. Mr. Huntington replied that they have to have a prepaid account.

Mr. Huntington stated that we need regulatory parameters and a framework to regulate intrastate internet gambling. Technically we could only have intrastate gambling if we have regulations in effect. Exceptions are made each session and a framework is needed to deal with this.

Mr. Carson stated he would not support any change, this would open up a whole new set of problems.

Mr. Tooke stated that most wonder what the smoking ban in 2009 will do to the tavern gambling businesses. He said there is the potential for smokers to sit home in front of their computers, smoking and using their credit cards for online gambling.

Mr. McAnally commended the Division for bringing this to the Council's attention. Mr. Murnion stated that the Division needs to consider regulations so that the foundation is laid for when the next bill is introduced for internet gambling.

Mr. Huntington stated that he was puzzled by the Council's misconception he sees this as building a regulatory framework and it is being characterized as enabling people to do internet gambling. Without this proposals for new internet gambling will come in without legislation for a regulatory framework being in place.

ISSUES AND DISCUSSION TOPICS

Casino Zoning

Mr. Huntington reviewed the paper on casino zoning. The Division reviewed the zoning regulations in the major cities in Montana and found that cities have different definitions for casinos from bars or bar restaurants. Mr. Carson stated that the actual question was do locales have the ability to limit the number of video gambling machines at a location. Mr. Huntington stated that if the Division finds in the initial investigation of an establishment that there is a local ordinance limiting the number of machines, the Division will not license more than that number.

Chairman Tooke appointed a sub-committee to discuss this issue. Steve Morris, Pam Kennedy and Nick Murnion were appointed. Mr. Morris was appointed chairman of this committee.

Death of a Licensee

Mr. Huntington explained that the Division would like to make the process simpler for transferring a gambling license upon the death of a licensee. Mr. Huntington stated that sometimes the Division does not find out about a death until renewals. Mr. Carson asked if a sole proprietor passes away if the establishment is automatically shut down. Ms. Baertsch explained that a personal representative is appointed while the estate is in probate, amended machine applications are submitted, and the establishment is not shut down due to the death. Proposed rule changes will be brought back to the Council.

Impact Printer Availability

Mr. Huntington stated that there is no immediate threat to being able to purchase impact printers. The demand for impact printers has declined and the price has increased to \$977. A comparable thermal printer is priced at \$638, but the problem with using these printers is that they do not have the capability to create a copy on the permanent

continuous roll. Mr. Huntington stated that a long term solution would be to require all video gambling machines to be connected to a computer on the premises as part of a Tier I accounting system.

Mr. Carson indicated that with the technological advancements and the system working well, changing to thermal printers with a one year record retention period may work well since the vgm is available to reproduce tickets. He also explained that the new \$5 bills which are being introduced in March will change technology since 5000-6000 bill acceptors will become obsolete at that time.

Mr. Tooke asked about record retention with the vgm data history taking some of the burden away from roll retention. Is there a way to cover holes in data history without the rolls now? Mr. Huntington stated it is too early to tell at this point. Mr. Ask stated that the Division needs experience with the new system and time to analyze the data in the next couple of years.

UPDATE ON GENTAX

Mr. Huntington presented an update on the development of the database. As of September 30, 2007, 804 locations are online, with 862 anticipated by January 1. There are 7,491 vgms online with 8,352 anticipated by January 1. 44% of video gambling machines are reporting online. There are 1,427 locations with multi-game agreements which end on January 1. 222 locations in the state do not have multi-game agreements. Mr. Arvish indicated that 73,000 meters were reported in the last quarter - this will help with statistical information in the future. A brochure was sent out and in one week 44 calls were received requesting sign up information. After a premise is signed up then Al has a "Webinar" conference call where he walks the person through the web entry process.

Mr. Carson stated that the most significant change is the electronic permitting which has greatly simplified the operator's life and is a very impressive segment of the overall project.

Attorney General McGrath indicated that he appreciates everyone that worked in achieving this goal - it was a cooperative effort to respond to needs with a system that meets government needs and public needs and the Gaming Advisory Council had a very large part in that effort.

OTHER LEGISLATION

Provide for a 3 Year Card Dealer License

Mr. Huntington reviewed other legislation that could be included in legislation. The first proposal would provide for a three year card dealer license. Ms. Kennedy stated that if a

dealer renews yearly then there is a background check yearly. Mr. Tooke asked the cost of the background check. Ms. Baertsch responded that the fingerprint check is \$29.25. Mr. Tooke stated that card dealer licensing needs to be streamlined and with a three year license the Division could collect the administrative cost in the upfront license fee. Ms. Kennedy responded that the Division needs current information on the dealers then a one year license should be kept to maintain more credible information. Mr. Tooke responded that he preferred a three year license that would stream line the paperwork for the Division. The Council decided to put this issue on the back burner at this time.

A License Category for Associated Businesses

Mr. Huntington stated that on two occasions in recent years the Division has felt it was necessary to license businesses that are not directly in the gambling business. In one case it was the software companies who make the accounting software used for online reporting and in the other case an out of state firm that recycles gambling machines. In both of these cases the Division had to try to fit these businesses into existing license categories. The Division has fit them under distributor license but a more appropriate category is needed.

New Definition of an Antique Illegal Device

Mr. Huntington explained that the current definition is any device that is at least 25 years old. This definition creates confusion because it is a moving target. The original intent was to cover devices that existed before gambling was legal. The law does not apply to devices such as video gambling machines that are legal devices. Other states have picked a specific date such as 1950 or 1960. Mr. Kennedy suggested adding the word obsolete to the definition. The Council decided to postpone any action on this issue.

Insertion of Tickets

Mr. Huntington stated that current video gambling machine definitions in the statute call for the insertion of cash to play the machine, but in other jurisdictions machines operate through the insertion of tickets. He explained that although no one has proposed using this technology, the Division has received questions as to its legality in Montana. Mr. Carson explained that this issue ties into the thermal printer discussion. Large fees are paid to the patent companies and this only works with a Tier I system and we now have 8,000 vgms on Tier II system.

Other Issues

Rich Miller discussed the issue of negative taxes and how taxes are calculated. Mr. Tooke stated that it is a question of fairness and it needs to be fixed; it needs to be looked at and addressed because it is not a fair method of taxation.

Mark Ehli stated that bingo needs to be cleaned up and redefined to allow other forms of the game. He believes there needs to be a provision for the department to approve new

games without going to the legislature each time. Mr. Tooke stated that it is hard to get a consensus from the bingo industry as regards change to the bingo games. Mr. Tooke explained that Mr. Ehli needs to be able show a consensus from the industry that supports this proposal. Mr. Ehli explained that the changes would not be mandatory. Mr. Tooke said that there is a problem getting the fraternal organizations to change. Mr. Carson suggested looking at proposed changes and then doing a survey. Mr. Huntington stated that the Division can work on proposed legislation. Mr. Carson asked if there would be changes in the electronic versions of bingo? Mr. Ehli stated that there is only one vgm that has bingo and it is on a multi-game machine which does not fit the definition of bingo. Mr. Huntington explained that the bonus game legislation allowed games to be played differently on the video gambling machines. The Division will work on drafting legislation on this.

PRESENTATION OF PROPOSED RULES AND CHANGES IN FORMS

Mr. Huntington reviewed potential rules to be enacted before the next meeting. Mr. Huntington explained that language relating to forms has been changed throughout the rules. The other rule relates to signing people up for the accounting system, to help those are having reporting done by a route operator.

CHANGES IN REPORTING STATISTICS

Mr. Huntington explained that the change over to GenTax has changed the reporting for statistics. The Division is reviewing the data to see what we are measuring and how we are measuring it and to report on trends in the data.

FINAL BUSINESS

The Council tentatively scheduled their next meeting in Great Falls on March 21, 2008.